

REMARKS

The Office Action mailed August 17, 2009 has been reviewed and reconsideration of the above-identified application in view of the amendments and following remarks, is respectfully requested

Claims 1-18, 20, 21 and 23 are pending and stand rejected.

Claims 1, 11, 13, 14, 15, 16, 17, 18, 20, and 21 have been amended.

Claims 1, 11, 13, 14, 15, 16, 17, 18, 20, and 21 are independent claims.

. Claims 1-5, 7, 8, 10-18, 20, 21 and 23 stand rejected under 35 USC §103(a) as being unpatentable over Yamaguchi (USPPA 2001/0042252) in view of Raike (USPPA 2002/0025045). Claim 6 stands rejected under 35 USC §103(a) as being unpatentable over Yamaguchi in view of Raike and further in view of Hobrock (USPPA 20040247122). Claim 9 stands rejected under 35 USC §103(a) as being unpatentable over Yamaguchi in view of Raike and further in view of Nakagawa (USPPA 20010028725).

With regard to the rejection of claims 1-5, 7, 8, and 10-26 under 35 USC §102(b) as being unpatentable over Yamaguchi in view of Raike, the Office Action states that "Yamaguchi discloses a MPEF2TS transport stream that is segmented into data components which are provided with different numerical component ID number ([0066]). The data components are further divided into packets for transmission over a channel. Different components can contain different types of data such as 'viewing permission information (FIG. 2 and [0067], 'reception elements' which are interactive data ([0073]), video data ([0067]) or audio data (0067)] (e.g., see 'the component 217 includes viewing permission information 218, which contains subscription information given for each program. The subscription information contains, for instance, information showing that a program is allowed to be viewed periodically, and information showing that a program is charged on an as-used basis as in Pay Per View. Video data and audio data are included in a video data component and an audio data component, which are not shown in the figures' [0067]; see also 'In the

MPEG2 transport stream 200 the components 201 and 204 are interactive data, and reception elements included in these components 201 and 204 are repeatedly transmitted'([0073]). ... Since Yamaguchi teaches that such 'components' are not a type of data but generic data segment that contain various data types, the component ID values for each different component are 'ID data being different from ID data being pre-determined to identify the type of data in the stream of audiovisual data." (see pages 2-3, OA).

The Office Action further refers to Raike for teaching partial encryption of the data leaving the ID segment unencrypted.

Applicant respectfully disagrees with and explicitly traverses the rejection of the claims. However, in order to advance the prosecution of this matter, the independent claims have been amended to present the subject matter claimed in better form. More specifically, the independent claims have been amended to recited that the "ID Data being an alteration of ID data being pre-determined to identify the type of data in the stream of audiovisual data such that the altered ID data renders the type of data in the at least one stream unrecognized." No new matter has been added. Support for the amendment may be found at least in Tables 3 and 4 and on page 8, lines 5-8 ("In a subsequent process step 216, the ID data segment of data segments comprising audio data is modified by the packet identifier unit 106. In this way, the audio packets are not recognised as such by a playback apparatus such as a legacy DVD player.")

In referring to the plurality of components (207, 219, 201 and 204) and that each component has a separate identification described by Yamaguchi, applicant submits that these components represent pre-determined types of data expressed by their identification. That is, the identification values are those data values that are expected for the different types of data in the stream.

Yamaguchi fails to provide any teaching regarding providing an ID data that is an alteration of ID data being pre-determined to identify the type of data so as to render the data unrecognized, as is recited in the claims.

Raike discloses a system wherein a tag associated with an encrypted

packet is transmitted unencrypted resulting in a “partially encrypted packet.”

However, contrary to the assertions made in the Office Action, the tag of Raike is not comparable to the ID data recited in the claims. Rather the tag is information included in the packet header that identifies the packet (see para. 0029). The tag does not represent the type of data in the packet.

In addition, Raike fails to disclose that the tag represents an alteration of the ID data identifying a type of data in the packet.

A claimed invention is *prima facie* obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest all the claim limitations. The Court in *KSR v. Teleflex* (citation omitted) has held that the teaching, suggestion and motivation test (TSM) is merely to be used as a helpful hint in determining obviousness and a bright light application of such a test is adverse to those factors for determining obviousness enumerated in *Graham v. John Deere* (i.e., the scope and content of the prior art, the level of ordinary skill in the art, the differences between the claimed invention and the prior art and objective indicia of non-obviousness) (citation omitted).

In this case, the combination of the cited references fails to disclose a material element recited in the independent claims and thus, each of the independent claims is not rendered obvious by the cited references.

For at least this reason, application submits that the rejection of the independent claims has been overcome.

With regard to the remaining claims, each of these claims depends from one of the independent claims and, hence, these claims are also not rendered obvious in view of the cited references by virtue of their dependency upon an allowable base claim.

With regard to the rejection of claims 6 and 9 as being unpatentable over Yamaguchi in view of Raike and further in view of Hobrock and in view of Nakagawa, respectively, applicant submits that these claims depend from independent claim 1 and neither the Hobrock nor the Nakagawa provide any teaching that would overcome the deficiency found to exist in the combination of Yamaguchi and Raike. Accordingly, the subject matter recited in claim 1 is not rendered obvious by the combination of the cited references.

For at least this reason, application submits that the rejection of the independent claims, and consequently the aforementioned dependent claims, has been overcome.

For the amendments made to the claims and for the remarks made herein, applicant submits that the reason for the rejection of the claims has been overcome and respectfully requests that the rejection be withdrawn and a Notice of Allowance be issued.

Applicant denies any statement, position or averment stated in the Office Action that is not specifically addressed by the foregoing. Any rejection and/or point of argument not addressed are moot in view of the presented arguments and no arguments are waived and none of the statements and/or assertions made in the Office Action are conceded.

Applicant makes no statement regarding the patentability of the subject matter recited in the claims prior to this Amendment and has amended the claims solely to facilitate expeditious prosecution of this patent application. Applicant respectfully reserves the right to pursue claims, including the subject matter encompassed by the originally filed claims, as presented prior to this Amendment, and any additional claims in one or more continuing applications during the pendency of the instant application.

In the event the Examiner deems personal contact desirable in the

disposition of this case, the Examiner is invited to call the undersigned attorney at the telephone given below.

No fees are believed necessary for the timely filing of this paper.

Respectfully submitted,
Michael E. Belk. Reg. No. 33357

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/Carl A. Giordano/

By: Carl A. Giordano
Attorney for Applicant
Registration No. 41,780

Mail all correspondence to:

Michael E. Belk
US PHILIPS CORPORATION
P.O. Box 3001
Briarcliff Manor, NY 10510-8001
Phone: (914) 333-9643
Fax: (914) 332-0615

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